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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/599,993	06/23/2000	Atsunobu Murase	0102/0127	8979

21395 7590 11/17/2004

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717 NORTH FAYETTE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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BRINEY III, WALTER F

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Advisory Action**

Application No.

09/599,993

Applicant(s)

MURASE, ATSUNOBU

Examiner

Walter F Briney III

Art Unit

2644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 12 October 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

10. ☒ Other: This Advisory Action also serves as a response to the status inquiry accompanying notice of appeal, filed 10/12/04.

The after-final amendment, filed 28 June 2004, is non-compliant. In particular, the status identifier for claim 17 is incorrect. Previously Amended, is no longer recognized as a proper status identifier, and should be replaced with Previously Presented, such as in claims 23 and 24.

The applicant has amended independent claims 1, 9, 10, 15, and 16 to include the new limitation "*said previously sampled level being sampled one sample before the presently sampled level.*"

The examiner has not previously indicated that this limitation is allowable, nor was it recited in the previous response from applicant, filed 05 February 2004. Thus, the amendments would require further search and consideration, and are not entered.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-24 have been fully considered but they are not persuasive.

In particular, the applicant alleges that the combination of Katayanagi and Genter would have been impossible; the examiner respectfully disagrees. As a first matter, the examiner does not disagree with the applicant's interpretation of Genter, however, the examiner combined Genter with Katayanagi for the sole-purpose of showing the obviousness of the particular variation detection means as claimed and as used for noise level determination.

In regards to figure 4 of Genter, signals FAVG and EAVG are used together to generate a noise floor, and a subsequent noise estimate. EAVG includes the currently

sampled input signal level. FAVG, however, is a function of previous EAVG measurements that were deemed to be absent far-end speech energy. Thus, FAVG mimics the behavior of EAVG during these silent intervals. As such, EAVG and FAVG comprise a currently and previously sampled level.

In regards to performing estimation, renewing, and outputting functions under the condition wherein the currently sampled level increases over the previously sampled level, Genter teaches raising the noise floor in the aforementioned event if  $SAVG < CONST[B]$ .

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter F Briney III whose telephone number is 703-305-0347. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W Isen can be reached on 703-305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WFB  
11/10/04

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XU MEI  
PRIMARY EXAMINER